IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.6777 OF 2005

Ashok Sopan Gorad Applicant

versus

The State of Maharashtra Respondent

Mr.A.P.Mundargi, Sr.Counsel i/by R.V.Bansode for applicant.
Mr.R.Y.Mirza, APP for respondent.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 23rd November 2005

PC :

1. Heard Mr.Mundargi - learned Senior Counsel for the applicant and Mr.Mirza for the respondents. The applicant applies for bail. He has been arrested in connection with C.R.No.6 of 2005 registered at Mhaswad Police Station on 22nd January 2005. The offences alleged are criminal breach of trust, misappropriation, cheating, forgery etc. punishable under the IPC..

2. It appears that a complaint was lodged by Managing Director of Satara D.C.C. Bank that one Ramchandra Katkar in collusion with Arun Bhise, who was cashier in Kukudwad Branch of the said branch, obtained Demand Draft on 19th July 2003

drawn on Bank of Maharashtra, Mhaswad Branch, but this transaction is not appearing in the daily books of accounts. He also obtained a Demand Draft in the name of Jyotirling Credit Society for Rs.1.00 lakh in collusion with the cashier Arun Bhise. It is contended that the applicant before me is employed as a Clerk in the branch of the bank at Mhaswad. On the relevant date, the manager was on leave and therefore, the applicant took charge of Kukudwad Branch and committed fraud in collusion with Arun Bhise. The case is of preparing bogus Demand Drafts in the names of one Khairmode and various amounts have been misappropriated and siphoned off. There are some entries which are suspicious while pertaining to other sums, there are no entries in the bank record. In the FIR itself it is alleged that the branch was visited on 30th December 2004 and on that date it was discovered that the said Bhise had tendered resignation letter dated 13th December 2004. In the resignation letter itself said Bhise has owned the responsibility exclusively for all the irregularities committed at the said branch. It is in these circumstances that various persons including the present applicant came to be charged with the aforesaid offences.

3. The applicant came to be arrested on 17th March 2005. He was in Police Custody from 18th March 2005 to 23rd March 2005 and thereafter he is in Magisterial Custody till date. His bail application has been rejected and that is how he is before me.

4. Mr.Mundargi appearing in support of this application contended that only one day i.e. 5th May 2005 when Branch Manager Suresh Tupe of Kukudwad Branch was on leave, that the applicant took charge as in-charge Manager. He invites my attention to the allegations in the FIR pertaining to this fact. However, he invites my attention to the statements which are recorded wherein it is categorically stated that as far as present applicant is concerned, on 5th May 2004 Demand Draft No.644097 of Rs.29,284/- in favour of one Mr.Khairmode and drawn on Satara City Branch bears signature of the applicant as a Cashier. This transaction is not reflected in the account. Apart from this, there is no other role attributed to the applicant. It appears, according to Mr.Mundargi, that there were series of transactions even prior to this date and in all these transactions it has been categorically

stated that as far as Bhise is concerned, he has either signed the Demand Drafts or they have been signed by the then Branch Managers. The applicant officiating for one day cannot be charged with acting in collusion with Mr.Bhise, committing fraud and forgery. In these circumstances, this is a fit case according to Mr.Mundargi, for enlarging the applicant on bail. Moreso, when the offences are triable by Magistrate and the applicant has been in custody for more than six months.

5. Mr.Mirza appearing for the prosecution, on the other hand, contends that this is a case where a fraud has been perpetrated on the D.C.C. Bank by it's employees and lakhs of rupees have been siphoned off. It is immaterial whether the persons concerned were officiating or in-charge because each one of them had knowledge that said Bhise was preparing such demand drafts in favour of fictitious persons. The applicant, therefore, ought to have verified from the records and atleast made proper entries before signing the demand draft. He cannot be said to be involved erroneously or on the basis of any isolated act.

6. With the assistance of learned advocate, I

have perused the relevant materials including the orders passed by the learned Sessions Judge. As far as transaction is concerned, it appears that the demand drafts have been drawn over a passage of time in favour of several parties by the concerned persons including Bhise. However, as far as statements recorded and the materials produced against the applicant are concerned, his role is that of signing a particular demand draft in his capacity as Cashier-cum-Incharge Branch Manager. Apart from this, the statements do not contain any other allegations being directly involved or concerned with the transactions in question or with the acts of omissions and commission on the part of the said Bhise. Prima facie, in the large scale irregularities, the role of the applicant is that of in-charge branch manager, as his substantive appointment was at a different branch. Admittedly, at the relevant time the applicant was in employment at the Mhaswad Branch. In these circumstances as well as considering the fact that the applicant has spent about seven months in custody and has no other antecedents, this is a fit case where he deserves to be enlarged on bail. There is no apprehension that the presence of the applicant cannot be secured at the trial. He has

categorically averred in the application that he is a permanent resident of village Gangoti, Tal.Maan. He has immovable property. The applicant is willing to abide by all conditions.

7. In the light of the aforesaid, following order.

(i) The applicant is directed to be enlarged on bail on furnishing P.R.Bond of Rs.5,000/- (Rs.Five thousand only) with one surety in the like sum.

(ii) The bail is granted subject to condition that the applicant shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(iii) The applicant shall co-operate with the Trial Court for expeditious disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

(iv) Any observation/s made in this order shall not be constructed as any finding or any expression of opinion on the merits of the case

at the time of trial.

(v) Application is disposed of in above terms.

(S.C.DHARMADHIKARI, J.)